



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 25, 1996

Mr. J. Robert Giddings  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2981

OR96-2187

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102009.

The University of Texas at Austin (the "university") received a request for a copy "of any and all documentation of plays that may or will be executed by the offense of the 1996 University of Texas at Austin Longhorns Football Team, . . . and a photocopy of the team's play book." You assert that the requested information is excepted from required public disclosure based on Government Code sections 552.101 and 552.104. You have submitted to this office a representative sample of the requested information.<sup>1</sup>

Section 552.104 of the Government Code provides that "[i]nformation is excepted from [required public disclosure] if it is information that, if released, would give advantage to a competitor or bidder." The provision is designed to protect a governmental body's marketplace interests in competitive situations. Open Records Decision No. 593 (1991) at 2. A governmental body may claim section 552.104 to withhold requested information by showing that the release of the information could result in some specific harm in a particular competitive situation. *See id.*

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You inform us that athletic competition conducted by state institutions of higher education in Texas is self-sustaining. You explain that the university's football program is the largest source of revenue for the university's athletic program. We conclude that the university has demonstrated that the release of the play book could harm its ability to sustain its athletic program. Accordingly, the university may withhold the play book from the requestor based on Government Code section 552.104.

Having determined that the university may withhold the play book from the requestor based on section 552.104, we need not address your section 552.101 claim at this time. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/rho

Ref.: ID# 102009

Enclosures: Submitted documents

cc: Mr. Michael A. Kelley  
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(w/o enclosures)